

DNR REGULATORY AGENDA FOR SFY 2008
FORM FOR REGULATORY ACTION DESCRIPTION

Rule Making Authority

Director ☐
Environmental Protection Commission (EPC) ☒
Natural Resource Commission (NRC) ☐
Energy & Geological Resource Division ☐

Title of Regulatory Action

Technical Standards and Corrective Action Requirements for
Owners and Operators of Underground Storage Tanks

Rule Chapter(s) that may be involved

567-Chapter 135(455B)

Description of Contemplated Regulatory Action

(Including, to the extent reasonable and practicable, alternatives to be considered and preliminary estimate of costs and benefits of the Action)

The Department proposed and the Iowa Legislature passed legislation (SF 499/HF792) (Iowa Act) this session granting rulemaking authority to the Commission in response to provisions of the Federal Energy Act of 2005 (Federal Act). The Federal Act requires States to implement several policies consistent with EPA issued guidance in order to maintain Federal funding and the Department's "state program approval" for the UST program.

UST operator training - The federal 2005 Energy Policy Act requires adoption of operator training by state UST programs receiving federal grants. Federal guidelines are expected in August 2007. The department anticipates initiation of stakeholder meetings this fall followed the formal rule making process. Cost of the program is unknown at this time.

Fuel Delivery Prohibition - The federal 2005 Energy Policy Act requires adoption a fuel delivery prohibition by state UST programs receiving federal grants. Rules for fuel delivery prohibition were filed for notice of intended action in July 2007. At this time Iowa has delivery prohibition when financial responsibility such as insurance is not maintained. The federal requirement adds certain operational non-compliance problems as reasons to prohibit fuel delivery. Since the department already requires tank tags for fuel delivery, there should be minimal additional cost to implement.

Licensing of tank installer / tester / closer – Legislation transferred the licensing program from the Iowa Comprehensive Underground Storage Tank Fund to the Iowa DNR beginning July 1, 2007. The rules were adopted emergency. Rule changes will be needed to address the licensing of people which remove/close tank systems which was added to the program.

Require new UST systems to have secondary containment - The federal 2005 Energy Policy Act requires adoption of secondary containment requirements for new UST systems within 1,000 feet of a community water system or drinking water well. The Act passed by the Iowa Legislature requires secondary containment starting in August 2007. Secondary containment adds protection to drinking water and groundwater resources. There will be an increased cost to owners that would not have installed secondary containment. However, most new installations today normally install secondary containment and under dispenser containment.

Additional rule changes that may occur include incorporating the department's corrosion inspection form and requirements currently in use. Increase inspection of impressed current corrosion protection systems to yearly from every three years. Add requirements for owners of systems that operate part or all of the time without personnel on-site overseeing the operation. This will include required checks on the operation of the tank system and the installation of in-line leak detection equipment that shuts down the submersible pump when a leak occurs. Require UST owners/operators to visually inspect sumps for equipment leaks. No longer allow installation of ball float valves for overfill prevention.

Temporary closure – Add requirements for bringing a tank system back into use after temporary closure and require permanent closure of tank system after three years in temporary closure.

LUST Tier 2 model – Adopt changes in Tier 2 model and policies used to assess contamination movement in groundwater based on stakeholder and DNR review.

LUST rules on the assessment and cleanup of contamination from MTBE / TBA / oxygenates / other additives (ethanol).

Legal Basis

(Include whether action is required by statute or court order)

Iowa Code section 455B.474 or 2005 Energy Policy Act

Need for Regulatory Action

(Include if applicable how the action will reduce risk to public health, safety, or the environment)

To incorporate policy and reduce UST system operational problems which in turn reduces risk to public health, safety and the environment due to releases of petroleum and hazardous substances and incorporate requirements in 2005 Energy Policy Act and Iowa Act SF 499/HF792.

Other Affected/Interested Rule Making Authorities

State Fire Marshall; UST Fund Board, General Services Department, Emergency Management Division, DOT, DED

Potential Public Groups Impacted

Underground storage tank owners and operators, UST equipment installers, tank testers and closers, environmental groups

Schedule:

(Actions & month/year)

Secondary containment and fuel delivery prohibition
Notice of Intended Action - July 2007
Public Hearings - August 2007
Final Rule - October 2007

Other UST rules
Stakeholder Meetings – October 2007
Notice of Intended Action – November 2007
Adopt Rules – January 2008

UST operator training
Stakeholder meetings -start January 2008
Notice of Intended Action - May 2008
Adopt rules - July 2008

LUST rules
Stakeholder Meetings – October 2007
Notice of Intended Action – February 2008
Public Hearings – March 2008
Adopt Rules – May 2008

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